

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2010-6013
Issue No.: 2000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 25, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 after timely notice and upon the Claimant's request for a hearing a telephone hearing was held on March 25, 2010. The claimant was present and testified.

ISSUE

Did the Department properly close the Claimant's MA?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. On September 1, 2009, the department closed the claimant's MA because the minor child member of the FIP group turned 18.
2. On August 25, 2009, the claimant filed a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Here, the Department found the claimant had become ineligible for MA because her child was 18. The claimant argues that her son turned 18 in May but continues to attend full time high school.

FIP Ineligibles

Families no longer eligible for FIP might continue eligible for MA-only under LIF. Consider LIF first, and then consider other categories...

A child has been excluded from the FIP program group because the child is emancipated, but the child lives with the group and is:

Under age 18, or
Age 18 or 19 and a full-time high school student who is expected to graduate before age 20. (PEM 110, p.2).

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24. 278(2). In the instant case, the parties reached an accord. The department agreed to accept documentation of the claimant's child high school attendance.

In addition:

**Timely Hearing Request
All Programs**

A hearing request is considered timely if it is received anywhere in the department:

Within the pended negative action period.

Within eleven days of the effective date of an immediate negative action (i.e., with adequate notice). When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday.

Prior to the effective date of an automatic MA or AMP termination. The effective date on the DHS-1605 is the MA end date on CIMS (negative action code 095).

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

Delete the pending negative action.
Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. (PAM 600, p. 17)

Here, the department closed the claimant's MA even though she had requested a hearing before that closure.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the department to restore MA benefits back to the time of closure and accept documentation as to the claimant's child's school attendance and take appropriate action to restore her MA.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/11/2010

Date Mailed: 6/11/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MJB/jlg

cc:

